

## **MAGISTRATE JUDGE HILDY BOWBEER**

### **Practice Pointers and Preferences**

## **CONTACT WITH CHAMBERS**

Chambers phone: (651) 848-1900

Chambers email: bowbeer\_chambers@mnd.uscourts.gov

Courtroom Deputy/Judicial Assistant: Judy Kirby

- Magistrate Judge Bowbeer's last name is pronounced Bōw-beer. The accent is on the first syllable.
- Magistrate Judge Bowbeer encourages you to call her chambers and speak with her Courtroom Deputy/Judicial Assistant, if you have questions about her practice pointers and preferences.
- Members of Magistrate Judge Bowbeer's chambers have been instructed not to provide answers to legal questions over the telephone. This includes procedural questions that would be governed by the Federal Rules of Civil Procedure or the Local Rules for the District of Minnesota.
- When calling in for a scheduled telephone conference with Magistrate Judge Bowbeer, the moving party must have all parties on the line before calling chambers unless otherwise instructed by the Court.
- When calling the Court with a question regarding a specific case, please first identify yourself and the party you represent, and have the case name and number ready.
- When sending e-mail to the chambers, please be sure to include the case number and short name of the case in the Subject line.
- If you need clarification regarding an order entered by the Court, please do not call chambers. Instead, file a letter on CM/ECF asking Magistrate Judge Bowbeer for clarification.
- If you have a question about how to file a document on CM/ECF, please call the Technical Help Desk in the office of the Clerk of Court at (612) 664-5155. You are also directed to the District's CM/ECF page, which has a number of useful resources. [http://www.mnd.uscourts.gov/cmecf/reference\\_guides.shtml](http://www.mnd.uscourts.gov/cmecf/reference_guides.shtml)

- To request a transcript of a hearing, please call or email Magistrate Judge Bowbeer's chambers, making sure to include the case name, case number, date, time, and nature of the hearing, and what type of transcript you would like, i.e., ordinary (30-day) or expedited (7-day or 14-day). Please make sure you include the name, telephone number, and email address of the person to whom the completed transcript and related communications should be sent.

## **FIRST PRETRIAL CONFERENCE**

- Pursuant to the Order for Pretrial Conference, the parties must submit in advance of the pretrial conference a Rule 26(f) Report that conforms with Fed. R. Civ. P. 26(f), Local Rules for the District of Minnesota 16.2 and 26.1, and Form 3 or (in patent cases) Form 4 of the Local Rules.
- The Court refers counsel to "Discussion of Electronic Discovery at Rule 26(f) Conferences: A Guide for Practitioners," developed by the Federal Practice Committee to help attorneys and parties prepare for a meaningful discussion of electronic discovery issues early in the litigation. The Guide is available on the Court's website under the Court Forms tab, in the Pretrial, Discovery, and Trial Forms section.
- Email a courtesy copy of the pretrial conference Rule 26(f) Report in Word format to chambers at [bowbeer\\_chambers@mnd.uscourts.gov](mailto:bowbeer_chambers@mnd.uscourts.gov) when it is filed on ECF. A hard copy of the Rule 26(f) Report is not required.
- In addition to the Rule 26(f) Report, each party must email to Magistrate Judge Bowbeer's chambers by the date specified in the Order for Pretrial Conference a confidential letter setting forth what settlement discussions have taken place and whether the party believes an early settlement conference would be productive.
- If any party believes a protective order will be necessary, it should raise the subject with all other parties during the Rule 26(f) meet-and-confer, and attempt to reach agreement as to the terms of the protective order to the extent possible before the Rule 26(f) Report is filed. The proposed protective order should be emailed to chambers along with the courtesy copy of the Rule 26(f) Report, identifying any areas of disagreement so that they can be discussed at the pretrial conference. (See Protective Orders and Sealed Documents, below.)
- Participation in Rule 16 conferences should ordinarily be in person, with lead trial counsel and local counsel (if lead counsel is not admitted to the Minnesota bar) present. However, participation by telephone will be considered at the request of a party where attendance in person would impose an undue burden or expense

in view of the nature of the case, the amount in issue, and the matters likely to be discussed at the conference.

## **PROTECTIVE ORDERS AND SEALED DOCUMENTS**

- If any party believes any of the documents or information likely to be produced or cited in the case should be restricted in access or use during the pendency of the case, the parties are encouraged to seek a protective order at the inception of the case, before discovery begins. If no protective order is in place by the time documents are to be produced, documents asserted to be confidential shall not be withheld on the basis that no protective order is yet in place. Instead, the producing party shall produce the documents to opposing counsel for attorney's review only; after the protective order is entered, the producing party shall designate the documents under the protective order.
- In connection with any motion filed with this Court, only those portions of a party's submission which meet the requirements for protection from public filing (e.g., protected by the attorney client privilege or work product doctrine, meet the standards articulated by Fed. R. Civ. P. 26(c)(1)(G), or prohibited from disclosure by a statute, rule, or regulation) shall be filed under seal. That the filing party has designated the material as confidential or produced it subject to a protective order is not, standing alone, sufficient basis for filing the material under seal. If a party intends to submit in connection with a motion a document the party believes in good faith does not qualify for filing under seal but which has been designated by another party as confidential or protected, the party intending to file the document shall follow the procedures set forth in the applicable protective order to challenge the designation of the document to the extent possible before the party's submission is due.
- Any submission filed with the court that is sealed and posted on the CM/ECF system with a placeholder shall be sent electronically or hand-delivered to all parties, and hand-delivered to the chambers of Magistrate Judge Bowbeer, on the same day the documents are posted on the CM/ECF system.
- Any proposed protective order submitted to the Court for consideration must contain language consistent with the immediately preceding two bullet points.

## **STIPULATIONS AND PROPOSED ORDERS**

- Counsel must comply with the electronic filing rules relating to the submission of stipulations and proposed orders. A stipulation must be filed electronically. A proposed order must be a separate document, in Word format, emailed to chambers at *bowbeer\_chambers@mnd.uscourts.gov*, and must reference the

docket number of the motion or stipulation to which it relates. If the proposed order is a protective order, please restate the text of the protective order within the proposed order rather than simply referring to the motion or stipulation.

- For non-dispositive motions, the proposed order must specifically identify the relief you seek (for example, for a motion to compel, identify in your proposed order each discovery request for which you seek relief and the relief sought) rather than simply state that the motion is “granted” or “denied.”
- Even where the parties agree upon the relief sought, a stipulation or joint motion must always include the information required by the Local Rules (for example, in a stipulation for modification of the scheduling order, the information required by Local Rule 16.3) to support the request for relief.

## **SCHEDULING AND CONDUCT OF HEARINGS**

- The obligation to meet and confer before filing a non-dispositive motion, as set forth in the Local Rules, is critical. A mere exchange of emails or letters without diligent attempts at personal contact will generally not be considered sufficient to discharge this obligation.
- All motions to be heard by the Court must be scheduled through Magistrate Judge Bowbeer’s Courtroom Deputy, at 651-848-1900. Pursuant to Local Rule 7.1(b), a date for the hearing of any non-dispositive motion must be obtained before the motion is filed.
- All non-dispositive motions must be filed and served, but need not be fully briefed or heard, by the applicable deadline set forth in the scheduling order.
- When scheduling a motion, the parties should work together and inform the Courtroom Deputy of all motions pending or anticipated in a particular case so that they can be heard at the same time. The parties should also inform the Courtroom Deputy if there are related cases with related motions.
- When a motion must be rescheduled, it is helpful to have all parties on the line at the same time so that a new date/time can be provided that will work for all parties.
- Even if the parties to a dispute agree that the motion can be submitted on the papers without a hearing, the moving party must call the Courtroom Deputy to set the date for submission of the matter to the Court. The matter will be deemed submitted upon receipt of the last filing. The Court ultimately will determine whether to hold a hearing on the matter.

- As a general rule, Magistrate Judge Bowbeer schedules a half hour for a hearing on a non-dispositive motion and an hour for a hearing on a dispositive motion. You must inform the Courtroom Deputy, well ahead of time if you anticipate that more time should be allowed, so that the Court and court personnel can arrange their schedules accordingly. Once a motion has been scheduled, do not add motions without calling the Courtroom Deputy to make sure there is enough time scheduled for all of the motions to be heard.
- To encourage law firms to allow newer attorneys the opportunity to argue a motion in court, Magistrate Judge Bowbeer is receptive to having a party present a bifurcated oral argument in which a senior attorney presents one portion of the argument and an associate who has worked on the case presents the other portion.
- Before filing a formal non-dispositive motion on a particular dispute, the parties should confer on whether the issue can be resolved instead through an informal telephone conference with Magistrate Judge Bowbeer. Please see the applicable pretrial order for the process, limitations, and expectations regarding this informal dispute resolution option.
- If a motion or case is resolved, please notify chambers as soon as possible so that any scheduled hearing can be removed from the calendar. If a motion has been partially resolved, please notify chambers to let the Court know what parts have been resolved and no longer need to be addressed by the Court. If time permits, notification should be by joint stipulation, as provided by Local Rule 7.1(a)(2).

## **WRITTEN SUBMISSIONS**

- Before you submit any motion to the Court, make sure you are in compliance with the Local Rules and the pretrial scheduling order in effect in the case. For example, all motions to modify the pretrial scheduling order require compliance with Local Rule 16.3.
- Magistrate Judge Bowbeer expects strict adherence to the word count and format rules set forth in the Local Rules. Magistrate Judge Bowbeer strongly discourages the use of procedural devices (such as splitting a motion to dismiss several counts of a complaint into separate motions) to circumvent the word count limit.
- For all motions to compel discovery, Magistrate Judge Bowbeer requires that each interrogatory or request, response, and objection at issue be set forth

verbatim within your memorandum of law, followed immediately by your explanation of why the discovery is needed for your case and why the response is inadequate or the objection improper. Magistrate Judge Bowbeer will not address any discovery dispute that is not raised in this manner. If, because of the number of requests at issue, this requirement would cause a party to exceed the word count limit set forth in the Local Rules, the party must request relief from the word count limit under Local Rule 7.1(f)(1)(D).

- You must obtain leave from the Court before filing a brief or other submission that exceeds the word count or page limits set forth by this Court, the Local Rules, or the Federal Rules of Civil Procedure.
- You must obtain leave of Court before filing a reply brief in connection with a non-dispositive motion. If a reply brief is permitted, and unless otherwise authorized, the brief shall not exceed 1,750 words, including footnotes, and the total word count for the original and reply memorandum does not exceed 12,000 words. For those parties registered on the court's CM/ECF system, replies must be served, filed, and delivered to chambers no later than four days after the filing of a response to a non-dispositive motion. For a case involving one or more parties who are not on the court's CM/ECF system (e.g., a case involving *pro se* litigants), the Court will set a date by which any reply is to be served and filed.
- The parties shall submit two courtesy copies of all documents filed, including documents filed under seal. One copy in .PDF format shall be sent electronically to the chambers e-mail box – **bowbeer\_chambers@mnd.uscourts.gov**. One hard courtesy copy of all pleadings and motion papers shall be delivered to chambers, as soon after filing as practicable. The hard copy should be collated and organized, with the CM/ECF legend showing the docket number of the filed materials at the top of each page. If it is not practicable to provide a copy with the CM/ECF legend, please label each page with the applicable CM/ECF docket number. Attachments and exhibits should be paginated and accompanied by an index that explains where specific exhibits can be found in the attachments. Any reference to an exhibit or attachment in your brief or memorandum should be precise enough to allow the Court to find the relevant page or pages quickly and easily. If the materials are very voluminous, Magistrate Judge Bowbeer and her staff would appreciate receiving the courtesy copies in 3-ring binders with tabbed documents and exhibits; otherwise, please do not submit the materials in binders.
- Any exhibits filed electronically should be attached to an affidavit that explains where specific exhibits can be found in the electronic attachments.
- Follow the type size conventions set forth in Local Rule 7.1(h). Do not use tiny footnotes unless you intend for the Court to disregard what is stated in them.

- A motion to amend a pleading or a scheduling order must be accompanied by a “redline” version of the proposed amended pleading or order showing the differences between it and the original.
- In general, your motion should be a self-contained bundle. For example, if a prior pleading is important enough to reference in your motion papers, attach it to your motion so that the Court does not have to find the pleading in CM/ECF in order to review it.

## SETTLEMENT CONFERENCES

- Be sure to read thoroughly and comply fully with any Order for Settlement Conference issued by the Court. Among other things, this Order requires the parties to send to the Court, in advance of the conference, a confidential letter addressing several issues. That letter is critical not only to the Court’s preparation for a productive conference, but also to you and your client’s preparation.
- All parties whose authority is necessary to settle the case must attend in person. Party representatives and their counsel must be prepared to spend the entire day, and even the evening, at the settlement conference. They should, therefore, be prepared to change other commitments, events, or travel plans they may have made for the afternoon or evening, if the Court deems that the parties are making or could yet make progress at the conference.
- The Court may *sua sponte* schedule status conferences or settlement conferences to explore options for alternative dispute resolution. In addition, the Court will in its discretion consider joint or ex parte requests that the Court schedule a settlement conference or otherwise assist in settlement negotiations, provided that the content of any ex parte request shall be strictly limited to the topic of settlement and shall not comment on any matter that may come before the Court for a ruling. Such requests shall be submitted by email to [bowbeer\\_chambers@mnd.uscourts.gov](mailto:bowbeer_chambers@mnd.uscourts.gov). The Court will treat ex parte requests as confidential unless otherwise advised.

## IN COURT

- Be prompt.
- Do not bring food or beverages, other than water, into the courtroom.

- Magistrate Judge Bowbeer has no preference as to which side sits at which counsel table.
- Stand at the podium when addressing the Court and counsel, and speak directly into the microphone. The podium can be adjusted up and down.
- Direct your oral arguments to the Court, not to opposing counsel, the law clerk, or to other court personnel.
- Address the Court and opposing counsel with civility and formality.
- In preparing for oral argument, keep in mind that Magistrate Judge Bowbeer will have read all timely-filed written submissions. Therefore, rather than repeating the arguments set forth in your written submissions, focus your oral argument on responding to your opponent's arguments.
- If you submit additional case law or exhibits at oral argument, you must first furnish such materials to opposing counsel. Bring enough copies to provide one each to other parties represented at the motion and two for the Court.
- If you intend to use courtroom technology during hearings or at trial, please become familiar with it before the hearing. Training can be arranged through the Courtroom Deputy. Please bring hard copies of any PowerPoint™ or other presentation graphics for the Court and opposing counsel.
- Magistrate Judge Bowbeer is located in the St. Paul Courthouse, Courtroom 6B, but on occasion may hold hearings in Minneapolis. Please make sure to verify the location of the hearing in advance of the hearing date to avoid delays resulting from going to the wrong courthouse.